

4.2 BIOLOGICAL RESOURCES

In response to a “biological evaluation” of the Megonigal property prepared by Robert A. Hamilton (September 22, 2008) and submitted to the Newport Beach City Council, a Biological Assessment Survey of the subject 0.1-acre property was conducted by Chambers Group on October 6, 2008. The findings of that survey are documented in a report dated October 9, 2008. The purpose of that survey was to: (1) assess the quality and quantity of native habitat present on the property; (2) evaluate the suitability of the habitat to support listed or otherwise sensitive species; (3) survey for sensitive species identifiable at the time of the survey; and (4) map the vegetation communities occurring within the property boundaries. In addition, the City of Newport Beach retained BonTerra Consulting to review the two biological reports for the Megonigal property and to assess the findings of the documents. Chambers Groups also conducted a “Follow-up Survey and Response to Comments Issued by BonTerra Consulting Regarding the Biological Study” (February 27, 2009). The biological assessment (October 9, 2008) and follow-up survey (February 27, 2009) prepared by Chambers Group are the basis of the assessment of biological resources presented in this section; however, the relevant findings of each report are summarized in the section that follows. Each report is included in Appendix C of the Draft EIR.

4.2.1 Existing Conditions

Vegetation

The subject property is composed of three plant communities, based on the biological assessment conducted by Chambers Group (refer to Appendix C). These plant communities (i.e., habitats), which include disturbed, disturbed/ornamental, and coastal bluff scrub, are discussed below.

Disturbed Habitat

This area, which encompasses 0.63 acre (2,744 square feet), is the largest plant community on the site (refer to Exhibit 4.2-1). These areas are either devoid of vegetation (i.e., cleared or graded) or areas characterized by a high percentage of non-native, weedy plant species. The disturbed habitat is generally located on the upper portion of the site; however, portions of the natural bluff and lower portion of the property also support the disturbed habitat. The upper portion above the natural bluff has been cleared and is relatively devoid of vegetation with the exception of sparse Russian thistle (*Salsola tragus*). The areas within the central and lower portions of the site include the eroding segment of the natural bluff that supports no vegetation; the lower areas are vegetated largely by exotic grasses, including ripgut grass (*Bromus diandrus*). Other non-native species identified within the disturbed habitat include fennel (*Feoniculum vulgare*), wild radish (*Raphanus sativus*), Russian thistle and Australian saltbush (*Atriplex semibacata*).

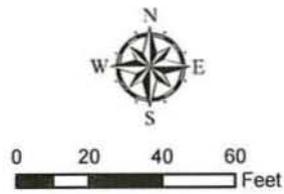
Disturbed/Ornamental Habitat

Areas mapped as disturbed/ornamental and illustrated in Exhibit 4.2-1 extend over 0.034 acre (i.e., 1,481 square feet) of the subject property. These areas are dominated by escaped or planted ornamental species as well as a high presence of non-native, weedy species. Vegetation in this habitat is located on the lower portion of the property and reflects influences from surrounding landscaped areas, particularly Begonia Park located adjacent to the site on the north/northeast. Ice plant (*Carpobrotus* sp. and *Mesembryanthum nodiflorum*), myoporum trees (*Myoporum laetum*), jade plant (*Crassula ovata*), and a large fig tree (*Ficus* sp.) dominate the species cover in this area. Non-native, weedy species, including Russian thistle, cheeseweed (*Malva parviflorum*), and a few black mustard (*Brassica nigra*) occur within the plant community.



Legend

- Coastal Bluff Scrub (0.006 acres)
- Disturbed/Ornamental (0.034 acres)
- Disturbed (0.063 acres)
- Property Boundary



**Vegetation Map
Exhibit 4.2-1**



The area at the lower portion of the property also supports several cliff aster (*Malacothryn saxatilis*) individuals and a young lemonade berry (*Rhus integrifolia*) less than 12 inches in height. A second lemonade berry individual is located on the lower portion of the slope, just beyond the property boundary and not on the project site. The presence of these native species indicates that, prior to encroachment from ornamental and weedy species; this area was vegetated with species characteristic of the coastal bluff scrub vegetation community. This area was classified as highly disturbed southern coastal bluff scrub in the Hamilton biological evaluation (refer to Appendix C). However, closer examination of the species present and their respective vegetative cover revealed that the overall native cover is very low (i.e., less than 10 percent) in this area because ornamental species have substantially displaced native species over time.

Coastal Bluff Scrub

The smallest plant community identified on the site is the coastal bluff scrub habitat, estimated to encompass approximately 0.006 acre (i.e., 261 square feet).¹ This habitat generally consists of woody and/or succulent species up to seven feet in height occurring on poorly developed rocky soils and exposed to moisture-laden winds with high salt content. Species characteristics of coastal bluff scrub include saltbush (*Atriplex* sp.), California buckwheat (*Eriogonum fasciculatum* var. *fasciculatum*), California bush sunflower (*California encelia*), stone crop species (*Dudleya* sp.) prickly pear cactus (*Opuntia littoralis*), cliff aster, and lemonade berry.

The area mapped as coastal bluff scrub (refer to Exhibit 4.2-1) is located on the cliff of the natural bluff centrally located within the parcel, which supports a total of 15 native shrubs, including California buckwheat, California bush sunflower, and the prickly pear cactus; however, big saltbush (*Atriplex lentiformis*), a species typically considered dominant or functional to the bluff scrub community, is absent from the site. Cliff aster and lemonade berry, also associated with this community, are present on-site, although they occur on the lower portion of the property, which has been overtaken by ornamental and weedy species with the exception of these few plants. A lemonade berry plant nearby is rooted underneath an overhanging patio of an adjacent home, next to, but outside the property boundary. The remaining portion of the natural bluff is bare of vegetation, and shows signs of significant natural erosion, as is characteristic of coastal bluffs.

Special Status Plants

A survey of six sensitive plant species known to occur within coastal bluff scrub habitat was conducted during the biological survey conducted by Chambers Group. These species include: (1) Davidson's saltscale (*Atriplex serenana* var. *davisoni*); (2) south coast saltscale (*Atriplex pacifica*); (3) many-stemmed dudleya (*Dudleya multicaulis*) (4) cliff spurge (*Euphorbia misera*) (5) Coulter's saltbush (*Atriplex coulteri*); and (6) woolly seablite (*Sueda taxifolia*). Each of these species is discussed below.

Davidson's Saltscale

This annual herb is listed by the California Native Plant Society (CNPS) as a 1B.2 species (i.e., rare, threatened or endangered in California and elsewhere). Blooming between April and October, populations of Davidson's saltbush have been found in Los Angeles, Orange, Riverside, Santa Barbara, San Diego, San Luis Obispo, and Ventura counties, and on several of the Channel Islands. The plant typically grows in coastal bluff scrub and in alkaline coastal scrub habitats at elevations between 30 and 660 feet above mean sea level (amsl). Although suitable habitat occurs on-site, this species was not observed on the property at the time of the survey, which was conducted during the typical blooming

¹The Robert Hamilton "biological observation" (September 22, 2008) indicated that more than half of the site is composed of southern coastal bluff scrub (0.02 acre in a narrow band of native vegetation along the top of the bluff) and highly disturbed southern coastal bluff scrub (0.06 acre) along the property's lower level).

season. This species was also not observed during the follow-up site visit and survey conducted by Chambers Group (refer to the discussion under “Many-Stemmed Dudleya”). Therefore, it is considered to be absent from the site.

South Coast Saltscale

This annual herb is also identified as a List 1B.2 species by the CNPS. Populations of South Coast Saltscale, which typically blooms between March and October, have been found in Los Angeles, Riverside, Santa Barbara, San Diego, Ventura counties as well as on several of the Channel Islands, occurring in coastal bluff scrub, coastal dunes, coast scrub, and on playas, often in alkali soils at elevations up to 460 amsl. Although suitable habitat occurs on-site, south coast saltscale is considered to be absent because the survey was conducted during the blooming period of the species.

Many-Stemmed Dudleya

Many-stemmed dudleya is a perennial herb listed by the CNPS as a List 1B.2 species. The species, which blooms between April and July, has been found in Los Angeles, Orange, Riverside, San Bernardino, and San Diego counties. It typically occurs in coastal scrub, chaparral, and valley and foothill grassland, usually on clay soils or grassy slopes at elevations from 48 to 2,595 feet amsl. Because this species is detectable outside of the blooming period and was not observed on the property at the time of the survey, it is considered to be absent from the site.

In addition to the site survey, a “reference” site was also visited by Chambers Group in response to the BonTerra Consulting comment that this species as well as the Laguna Beach dudleya have the potential to occur on the subject property. The purpose of the reference site visit was to assess the phenological development (i.e., phenology is the study of periodic plant and animal life cycle events and how these are influenced by seasonal and interannual variations in climate) of each of the sensitive *Dudleya* species at the time of the survey. Based on the reference site survey, the project biologist determined that had either the many-stemmed dudleya or the Laguna Beach dudleya been present on the subject site, it would be evident and identifiable on the February 12th site visit. However, neither of these species was observed on the follow-up site visit. As concluded in the report prepared by Chambers Group documenting the findings of the reference site visit and follow-up site visit, due to the disturbed nature of the project and its low habitat quality, which only supports three native plant species, it is highly unlikely that any sensitive plant species inhabit the project site.

Cliff Spurge

This perennial CNPS List 2.2 species (i.e., fairly endangered in California but more common elsewhere) occurs in San Diego and Orange counties as a component of coastal bluff or coastal sage scrub vegetation communities at elevations between 33 and 1,640 amsl. Because this species would be detectable at the time of the survey but was not observed, it is considered to be absent from the property.

Coulter’s Saltbush

Coulter’s saltbush is a perennial herb that is also included on the CNPS 1B.2 List. It is known to occur in San Diego, Orange, Los Angeles, Ventura, Santa Barbara, and San Luis Obispo counties at elevations ranging from 10 to 1,500 feet amsl. It is typically associated with coastal bluff scrub, coastal dunes, coastal sage scrub, and valley and foothill grassland with clay or alkaline soils. Because this species would be detectable at the time the survey was conducted and was not observed, it is considered to be absent from the property. This species was also not observed during the follow-up site visit and survey conducted by the project biologist.

Woolly Seablite

Woolly seablite is an evergreen shrub that is currently identified as a 4.2 Listed species by the CNPS (i.e., limited distribution and fairly endangered in California). The species, which is known to occur in San Diego, Orange, Los Angeles, Santa Barbara, and San Luis Obispo counties as well as the Channel Islands National Park, typically occurs on the margins of coastal marshes or as a component of coastal bluff scrub or coastal dune habitats at elevations ranging from sea level to 164 feet amsl. The species blooms from January through December but is detectable throughout the year. Therefore, because it was not observed during the survey conducted by Chambers Group, it is considered to be absent from the property.

Aphanisma

Although not originally evaluated, this species was also identified as potentially occupying the site by BonTerra Consulting. *Aphanisma* (*Aphanisma blitoides*) is an annual herb that flowers as early as March. Known populations of this species growing in Dana Point have been known to flower as early as February. Because flowers appear subsequent to the vegetative structures of a plant, evidence of this species would have been present on the project site during the February site visit. However, no plant resembling an aphanisma was observed on the project site and this species has been confirmed to be absent from the site.

Other Sensitive Plant Species

Other sensitive plant species identified in the California Natural Diversity Database (CNDDDB) for the Newport Beach 7.5-minute topographic quadrangle map include the salt marsh bird's beak (*Corydanthus maritimus* ssp. *maritimus*) and the Estuary seablite (*Sueda esteroa*); however, these species require estuarine, salt marsh, beach sands, or vernal pool habitats, which are not present on the property. As a result, the Chambers Group biological assessment concluded that these plant species have no potential to occur on the project site.

In addition, no habitat was present on-site for the following sensitive plant species.

- chaparral sand verbena (*Abronia villosa* var. *aurita*)
- southern tarplant (*Centromedia parryi* ssp. *australis*)
- San Fernando Valley spineflower (*Chroisanthe parryi* var. *Fernandina*)
- salt marsh bird's beak (*Corydanthus maritimus* ssp. *maritimus*)
- Los Angeles sunflower (*Helianthus nuttallii* ssp. *parishii*)
- Coulter's goldfields (*Lasthenia glabrata* ssp. *coulteri*)
- mud nama (*Nama stenocarpum*)
- Gambel's yellowcress (*Nasturtium gambelii*)
- prostrate vernal pool navarretia (*Navarretia prostrata*)
- coast woolly-heads (*Nemacaulis denudata* var. *denudata*)
- estuary seablite (*Sueda esteroa*)

Wildlife

Due to the disturbance that has occurred to the site as well as urban development that has occurred in the vicinity of the subject property, the numbers and types of wildlife species observed during the biological survey conducted by Chambers Group were limited mainly to common species that adapt well to urbanization, including:

- western fence lizard
- mourning dove
- Anna's hummingbird
- black phoebe
- wren tit
- northern mockingbird
- song sparrow

Special Status Wildlife

Although no sensitive species of wildlife were observed during the survey conducted by Chambers Group, wildlife species with habitat on-site include the Cooper's hawk and the coastal California gnatcatcher. These species, which are both special status species, are discussed below.

Cooper's hawk

The Cooper's hawk is a California Species of Concern (CSC). It occurs as a migrant and/or resident over most of the U.S. from southern Canada to northern Mexico. Favored habitats include open woodlands, mature forests, woodland edges, and river groves. More recently the Cooper's hawk has been known to breed in suburban and urban areas with similar tree structure to native habitats. An individual, which was observed during the initial site visit conducted by Robert Hamilton (refer to Appendix C), was probably using the nearby open space provided by Begonia Park for roosting and hunting.²

Coastal California gnatcatcher

Coastal California gnatcatcher is a federally threatened species and is listed by the State of California as a species of concern. It is a permanent resident of Diegan, Riversidian, and Venturan sage scrub sub-associations found from sea level to 2,500 feet above mean sea level. Within its range, the coastal California gnatcatcher associates strongly with California sagebrush (*Artemisia californica*) dominant habitats and also occurs in mixed scrub habitats with lesser percentages of this favored shrub. Other plant species important for the nesting and foraging of this species include California buckwheat, white sage (*Salvia apiana*), black sage (*Salvia mellifera*), and chaparral broom (*Baccharis sarothroides*). Chamise (*Adenostoma fasciculatum*) habitats may also support breeding pairs, especially where coastal sage scrub may occur nearby or form a component.

Sufficient foraging or nesting habitat for the California gnatcatcher is not present on the proposed project site or in the surrounding area to support this species. The habitat on the subject property is limited in size (i.e., 261 square feet) and vegetative diversity, including the absence of California sagebrush. Additionally, the project site is located in an area of dense residential development, surrounded by urban ornamental landscaping. Any remaining habitat exists as "islands" within the residential area, which consist of few native species present among substantial exotic and ornamental vegetation, and are insufficient in size and/or vegetative composition to support this species. Therefore, there is no potential for coastal California gnatcatcher to occur on the subject property.

Other Species

Other sensitive animal species identified in the CNDDDB for the Newport Beach 7.5-minute topographic quadrangle map include the California black rail, Belding's savannah sparrow, light-footed clapper rail (marsh), California least tern, and SC fairy shrimp; however, as indicated for the other plant species, these animal species also require estuarine, salt marsh, beach sands, or vernal pool habitats, which are

² Observation by Jenny McGee, Staff Biologist (Chambers Group); "Biological Assessment Survey at 2333 Pacific Drive, Newport Beach, California following initial Biological Evaluation conducted by Hamilton Consulting;" October 9, 2008.

not present on the property. As a result, the Chambers Group biological assessment concluded that these species of animals have no potential to occur on the project site.

Migration Corridors

The project site and surrounding areas are developed and no migratory wildlife corridors occur on site or in the immediate vicinity of the project site.

4.2.2 Significance Criteria

Appendix G of the State CEQA guidelines indicates that a project may be deemed to have a significant effect on the environment if the project is likely to:

- Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service (including protections provided pursuant to Section 1600 et seq.).
- Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.
- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

4.2.3 Standard Conditions

SC 4.2-1 Bluff landscaping shall consist of native, drought tolerant plant species determined to be consistent with the California coastal bluff environment. Invasive and non-native species shall be removed. Irrigation of bluff faces to establish re-vegetated areas shall be temporary and used only to establish the plants. Upon establishment of the plantings, the temporary irrigation system shall be removed.

4.2.4 Potential Impacts

4.2.4.1 Short-Term Construction Impacts

Terrestrial Habitat/Species

Noise levels at the project site due to construction activities would increase temporarily over existing ambient levels during the construction of the proposed project. During construction, noise may affect foraging and roosting activities, specifically for avian species. Although this is a temporary impact to such species, it is considered to be less than significant since noise levels would return to pre-construction levels at the completion of the proposed project. In addition, dust generated during the grading and site preparation phase would also be emitted onto the native and non-native vegetation on the bluff below the building pad; however, mandatory dust suppression (i.e., spraying the exposed areas with water) in accordance with SCAQMD rules will minimize the adverse effects of the dust emissions. Similar to the construction noise identified above, these impacts would also be temporary and cease upon completion of the site preparation phase. Avian species potentially affected by the construction noise are not limited to the site or immediate vicinity and could fly farther away to other locations, including Begonia Park, during construction. As a result, potential construction impacts would be less than significant.

4.2.4.2 Long-Term Operational Impacts

Vegetation

Project implementation will result in the elimination of the predominantly non-native species that exist on the site. In addition, it is possible that site grading and development would result in impacts to up to 261 square feet of the low quality coastal bluff scrub, including up to three native species previously identified that occupy the site. However, because the habitat mapped on the subject property does not qualify as an ESHA, based on Coastal Act parameters, no impacts to an ESHA would occur. Furthermore, no sensitive plant species were observed on the site and none are anticipated to inhabit the subject property. Therefore, no significant impacts to sensitive plant species would occur.

Wildlife

Although site disturbance associated with the grading and site preparation will temporarily displace the small rodents, reptiles and amphibians and birds that inhabit and/or utilize the site, it is anticipated that many of these common species, which are most adaptable to development, would return to the site after the construction is completed. The temporary displacement of these non-sensitive species is not significant and does not require mitigation. Implementation of the landscape concept plan for the proposed single-family residence would replace existing albeit sparse vegetation on the site and would provide suitable replacement habitat for these non-sensitive animal species. Therefore, no significant impacts are identified and no mitigation measures are required.

As previously indicated, a Cooper's hawk was observed during the initial sit visit conducted by Robert Hamilton in September 2008. This species is likely using the nearby open space provided by Begonia Park for roosting and hunting. The total area to be impacted by the proposed project is small in size, providing limited, if any, suitable habitat for this raptor species independent of the surrounding areas. The overall spatial loss of the project area will not result in a significant impact to the Cooper's hawk. No significant impacts are anticipated and no mitigation measures are required.

Migration Corridors

The project site and surrounding areas are developed and no migratory wildlife corridors occur on site or in the vicinity of the project site, and therefore, the project will not interfere with resident, migratory or wildlife species.

Habitat Fragmentation

The project site is located in a densely developed residential neighborhood with urban landscaping throughout the area. No coastal bluff scrub habitat of moderate or high value is present within the vicinity of the project site. These conditions create habitat fragmentation, resulting overall low habitat value of the remaining patches. Although the property is contiguous with Begonia Park, which does not support native wildlife species, there is no evidence that listed or otherwise sensitive species are dependent on the biological resources existing on the subject property. Begonia Park and the remaining open space in the project environs have been landscaped with urban ornamental landscaping. The areas of coastal bluff scrub located west of the site identified in the Hamilton biological evaluation (September 22, 2008) are also fragmented remnants of native habitat, consisting of few native species, surrounded by ornamental urban landscaping. The nearest habitat fragment is separated from the Megonigal property by the retaining wall of a nearby home. Ecological restoration, were it to be undertaken, could not restore full habitat value and function to this area.

Influence of Surrounding Human Activities

Due to the surrounding dense residential development, the subject property has been influenced directly and indirectly by various human activities, including the development of Begonia Park and subsequent ornamental landscaping, construction of the retaining wall at the property below the subject property as well as the construction of retaining walls and homes adjacent to the property, and the construction and terracing of streets and neighborhood lots. The remaining portions of coastal bluff scrub, both on the site and on other nearby fragments, reflect compromised habitat quality resulting from "edge effect" (i.e., disturbance to an area that borders or is a component of a natural habitat that results in negative impacts to some distance from the edge of the remaining intact natural habitat). Because it is of low quality, the southern coastal bluff scrub present within the project boundary does not provide valuable habitat because natural functions have been compromised by the surrounding human influences. Therefore, it does not support the species diversity, composition and connectivity necessary for an ecosystem to be of significant habitat value.

Limited Long-Term Habitat Value

The substantial soil erosion of coastal bluffs and terraces is a natural component of these environments. The function of disturbance in these habitats is a component of the ecology, and habitat is ultimately restored through the re-colonization of surrounding native vegetative species. Without surrounding vegetation to re-colonize, the habitat value may be lost entirely once the existing habitats are destabilized by soil erosion. The natural disturbance will continue to create conditions favorable to invasive, weedy species and encroaching ornamentals. Therefore, this habitat segment is not likely to provide significant long-term habitat value to native plants or wildlife species. As a result, elimination of the low value coastal bluff scrub habitat will not result in significant impacts to biological resources on the site.

Regional Habitat Conservation Plans and Programs

The City of Newport Beach, through execution of the Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP) Implementing Agreement (IA) and the receipt of a 10(a) Permit from the U.S. Fish and Wildlife Service, is a participating land use jurisdiction in the Central-Coastal Subregional NCCP/HCP program. All impacts (permanent or temporary) to coastal sage scrub resources, including bluff

scrub habitat, must be reported as annual take report to the Executive Director, Nature Reserve of Orange County.

Consistency with Coastal Land Use Plan and Natural Resources Element

The biological survey conducted by Chambers Group evaluated the applicability of the California Coastal Act as it relates to the City's Local Coastal Program Coastal Land Use Plan (LCP/CLUP) as well as the policies articulated in the Natural Resources Element of the Newport Beach General Plan. The function of the CLUP is the interpretation of the Coastal Act within the City, through policies that mandate the protection of environmentally sensitive habitat areas (ESHA) as defined by Section 30107.5 of the Coastal Act. ESHA are defined as ". . . any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments." Furthermore, the Natural Resources Element of the City's General Plan states that the overall goal of the element is the protection of sensitive and rare terrestrial and marine resources from urban development.

Based on the biological survey conducted by Chambers Group, the composition of the vegetation supported on the subject property is dominated by disturbed non-vegetated areas, ornamental species and weedy exotic species. Approximately five percent of the site (261 square feet) supports low quality coastal bluff scrub habitat. As indicated in the Robert Hamilton "biological observation," this habitat is recognized by the California Department of Fish and Game as a rare plant community. However, as documented in the biological survey conducted on the subject property, overall habitat value of the coastal bluff scrub occurring on the site is low due to habitat fragmentation, the influence of surrounding human activities, and because natural functions have been compromised by the surrounding human influences. Furthermore, no federal- or state-listed or other sensitive species were identified as having a potential to occur on the property. Therefore, the coastal bluff scrub habitat occupying the site does not qualify as an ESHA under the Coastal Act and, therefore, cannot be afforded protection under the Newport Beach LCP/CLUP or the Natural Resources Element of the City's General Plan as suggested in the Hamilton "biological observation." No significant impacts are anticipated and no mitigation measures are required.

4.2.5 Mitigation Measures

Although project implementation will result in the loss of 261 square feet (0.006 acre) of degraded coastal bluff scrub, its elimination will not result in a significant impact because it has been substantially compromised by fragmentation and influences from human activities. As a result, its value as a long-term habitat is very limited. No mitigation measures are required.

4.2.6 Level of Significance After Mitigation

As indicated above, no significant impacts to biological resources will occur as a result of project implementation.